

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MARCUS DION BROOKING,

Plaintiff,

v.

SERGEANT CLEAVER,

Defendant.

No. 3:15-CV-02134

(Chief Judge Brann)

(Magistrate Judge Saporito)

**ORDER**

**JULY 20, 2023**

Marcus Dion Brooking, a Pennsylvania state prisoner, filed this civil rights complaint alleging that Defendant violated his Eighth Amendment rights related to allegedly delayed dental treatment.<sup>1</sup> In April 2023, Magistrate Judge Joseph F. Saporito, Jr., issued a Report and Recommendation recommending that this Court find that Brooking failed to exhaust his administrative remedies and enter judgment in Defendant's favor based upon said failure.<sup>2</sup> After receiving an extension of time, Brooking filed timely objections to the Report and Recommendation.<sup>3</sup>

“If a party objects timely to a magistrate judge’s report and recommendation, the district court must ‘make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’”<sup>4</sup>

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<sup>1</sup> Doc. 5.

<sup>2</sup> Doc. 55.

<sup>3</sup> Docs. 57, 58.

<sup>4</sup> *Equal Emp’t Opportunity Comm’n v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)).

Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge’s findings or recommendations.<sup>5</sup> After conducting a *de novo* review of the Report and Recommendation, the Court finds no error in Magistrate Judge Saporito’s recommendation that the Court find that Brooking failed to exhaust his administrative remedies as to any request for monetary damages. Consequently, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Joseph F. Saporito, Jr.’s Report and Recommendation (Doc. 55) is **ADOPTED**;
2. The Court finds that Brooking failed to exhaust his administrative remedies, and the Clerk of Court is therefore **DIRECTED** to enter judgment in favor of Defendant;
3. Brooking’s motion for summary judgment (Doc. 59) is **DENIED** as moot; and
4. The Clerk of Court is directed to **CLOSE** this case.

BY THE COURT:

*s/ Matthew W. Brann*

Matthew W. Brann  
Chief United States District Judge

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<sup>5</sup> 28 U.S.C. § 636(b)(1); Local Rule 72.31.